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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,014	02/28/2002	Andrea Hughs-Baird	0112300-610	3796

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/09/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/086,014

Applicant(s)

HUGHS-BAIRD ET AL.

Examiner

Robert Mosser

Art Unit

3714

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on March 9th, 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attached.

Continuation Of PTO-462, Box 10

Appellant's notice of Appeal has been noted and entered.

The appeal brief presented March 9th, 2007 for Application number 10/086014 is non-complaint with 37 CFR 41.37 for the following reasons:

- (1) Sections (viii) through (x) of the Appellant's brief lack section title enumeration.
- (2) Section entitled Appendix A is located presently between sections (viii) and (ix) this is contradiction to 37 CFR 41.37(c)(1) for failing to maintain the order and numbering of brief sections as set forth. While the Appellant may include further section, such sections should be appended to the brief after the presentation of sections (i) through (x).
- (3) The brief contains sections including at least (iv), (ix) and (x) wherein the Appellant has indicated there is no attached amendments/evidence/related proceedings this is improper and the Appellant should indicate "None" in place of these statements (MPEP 1205.02).
- (4) Section (v) of the brief entitled summary of claimed subject matter is not restricted to the claimed invention and includes references to the state of the art and a general discussion of the disclosed apparatus rather than the claimed invention. This section is therefore is improper for failing to concisely correlate the —claimed- subject matter to the specification as presented.
- (5) Section (iii) includes the identification of claims as pending. The "pending" status is not a listed identifier as set forth by 37 CFR 41.37 or MPEP section 1205.02.
- (6) Section (vii) titled Arguments, includes five enumerated sections with the fifth section clearly directed to the second grounds of rejection appealed (through the sections respective title)

however, the remaining four sections fail to clearly identify the ground of rejection to which they refer to. The Appellant is required to treat each grounds of appeal under a separate heading in their arguments section. Presently no section identifies the first grounds of rejection under appeal and therefore is improper (MPEP 1205.02).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 28th, 2007
/RM/


ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER